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97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-323

NORTHERN PACIFIC HALIBUT ACT OF 1982

MARCH 22 (legislative day, FEBRUARY 22), 1982.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 2244]

The Committee on Commerce, Science, and Transportation, having considered an original bill (S. 2244) to give effect to the Protocol Amending the Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Washington, March 29, 1979, reports favorably thereon and recommends that the bill do pass.

PURPOSE OF BILL

The purpose of the bill is to amend U.S. law so that it will conform with the agreements made by the United States with Canada concerning the halibut fishery of the Northern Pacific Ocean and Bering Sea.

BACKGROUND AND NEEDS

The protocol amending the Convention was signed on March 29, 1979. The State Department submitted draft implementing legislation in July of 1981.

The legislation was reported with some modification by the full Committee on Commerce, Science, and Transportation on February 11, 1982, as an original bill. It is necessary to avoid possible legal complications, especially in the enforcement area, which could arise due to the fact that U.S. law does not reflect the updated terms of our agreement with Canada. Under its provisions, the U.S. participation in the International Pacific Halibut Commission, which dates back to 1937, will continue uninterrupted.

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Estimated Costs

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., March 16, 1982.

Hon. Bob Packwood,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed the Northern Pacific Halibut Act of 1982, as ordered reported by the Senate Committee on Commerce, Science, and Transportation, February 11, 1982.

This bill amends U.S. law to conform with agreements made between the United States and Canada in the Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea signed in March 1979. Under the Northern Pacific Halibut Act of 1937 the International Pacific Halibut Commission was created, and this bill updates the general authorities and duties of the U.S. government in regard to its responsibilities on this commission under the 1979 Convention. In fiscal year 1981, $741,000 was appropriated for payments to the commission and under Public Law 97-92, the Further Continuing Resolution, 1982, $813,000 is currently available for such payments. For fiscal year 1983, $768,000 is requested by the Administration for this purpose. Authority to carry out the agreements made in the 1979 Convention is currently available, thus no additional cost to the federal government is expected to be incurred as a result of enactment of this legislation.

Sincerely,

Alice M. Rivlin, *Director.*

Regulatory Impact

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation:

The bill merely amends existing U.S. law so that it will conform with the agreements between the United States and Canada concerning the halibut fishery of the northern Pacific and Bering sea. Enactment of the bill would not result in any increase or decrease in Federal regulation. It would also not impose any additional economic burdens, affect personal privacy, or create additional paperwork requirement.

Section-by-Section Analysis

Section 1

States the short title, "Northern Pacific Halibut Act of 1982."

Section 2

Lists definitions of terms used in act.

Section 3

Provides for three U.S. Commissioners to the International Pacific Halibut Commission, as well as Alternate U.S. Commissioners.

Section 4

Authorizes the Secretaries of State and Commerce to accept or reject recommendations made by the International Pacific Halibut Commission.

Section 5

Outlines the general authority and duties of the Secretary of Commerce and the Regional Fishery Management Councils, under the Convention and the act.

Section 6

Authorizes all Federal agencies to cooperate with the International Pacific Halibut Commission in the conduct of scientific and other programs.

Section 7

Defines what acts by U.S. citizens shall be considered violations of the Convention and the act.

Section 8

Outlines the civil penalties assessable under the act ($25,000 per violation) and the recourse available to persons accused under the act.

Section 9

Outlines the criminal penalties that may be adjudged under the act (maximum: $100,000 fine and 10 years in prison).

Section 10

Describes the terms under which fishing vessels used in violation of the act can be seized and disposed of, and also describes the terms pertaining to disposition of fish and other cargo aboard a seized vessel.

Section 11

Requires the act to be enforced by the Secretaries of Commerce and Transportation, and spells out the powers they are authorized to use in such enforcement.

Section 12

Authorizes appropriations for such sums as may be necessary to carry out the act for fiscal year 1983 and thereafter.

Section 13

Authorizes the Secretary of State to provide facilities and offices for the Commission.

Section 14

Repeals the Northern Pacific Halibut Act of 1937.

Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is

enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

Pursuant to section 14 of the bill, the Northern Pacific Halibut Act of 1937, as amended, is repealed 90 days after the date of enactment of the bill.

[AN ACT

[For the protection of the northern Pacific halibut fishery,

[*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That this Act may be cited as the "Northern Pacific Halibut Act of 1937".

[SEC. 2. When used in this Act—

[(a) Convention: The word "Convention" means the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa on the 2d day of March 1953 and any other treaty or convention which modifies or replaces that convention and shall include the regulations promulgated thereunder.

[(b) Commission: The word "Commission" means the Commission provided in the Convention.

[(c) Person: The word "person" includes partnerships, associations, and corporations.

[(d) Territorial waters of the United States: The term "Territorial waters of the United States" means the Territorial waters contiguous to the western coast of the United States and territorial waters contiguous to the southern and western coasts of Alaska.

[(e) Territorial waters of Canada: The term "territorial waters of Canada" means the territorial waters contiguous to the western coast of Canada.

[(f) Convention waters: The term "Convention waters" means the territorial waters of the United States, the territorial waters of Canada, and the high seas of the Northern Pacific Ocean and the Bering Sea, extending westerly from the limits of the territorial waters of the United States and of Canada.

[(g) Halibut: The word "halibut" means the species of Hippoglossus inhabiting Convention waters.

[(h) Vessel: The word "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water.

[SEC. 3. It shall be unlawful for—

[(a) any person other than a national or inhabitant of the United States to catch or attempt to catch any halibut in the territorial waters of the United States;

[(b) any person to transfer to or to receive upon any vessel of the United States, or to bring to any place within the jurisdiction of the United States any halibut caught in Convention waters by the use of any vessel of a nation not a party to the Convention, or caught in Convention waters by any national or inhabitant of the United States or Canada in violation of the Convention or of this Act;

[(c) any national or inhabitant of the United States to catch, attempt to catch, or to possess any halibut in the territorial waters of the United States or in Convention waters in violation of any provision of the Convention or of this Act;

[(d) any person within the territory or jurisdiction of the United States to furnish, prepare, outfit, or provision any vessel, other than a vessel of the United States or Canada, in connection with any voyage during which such vessel is intended to be, is being, or has been employed in catching, attempting to catch, or possessing any halibut in Convention waters or the territorial waters of the United States or Canada;

[(e) any person within the territory or jurisdiction of the United States to furnish, prepare, outfit, or provision any vessel of the United States or Canada in connection with any voyage during which such vessel is intended to be, is being, or has been employed in catching, attempting to catch, or possessing any halibut in violation of any provision of the Convention or of this Act;

[(f) any person within the territory or jurisdiction of the United States or any national or inhabitant of the United States within Convention waters knowingly to have or have had in his possession any halibut taken, transferred, received, or brought in in violation of any provision of the Convention or of this Act;

[(g) any person to deport from any place within the jurisdiction of the United States in any vessel which departs from such place in violation of the Convention or of this Act;

[(h) any person in the territorial waters of the United States or any national or inhabitant of the United States in Convention waters to catch or attempt to catch any halibut, or to possess any halibut caught incidentally to fishing for other species of fish by the use of or in any vessel required by the Convention to have or board any license or permit unless such vessel shall have on board a license or permit which shall comply with all applicable requirements of the Convention, and which shall be available for inspection at any time by any officer authorized to enforce the Convention or by any representative of the Commission;

[(i) any person to take, retain, land, or possess any halibut caught incidentally to fishing for other species of fish, in violation of any provision of the Convention or of this Act.

[SEC. 4. It shall be unlawful for the master or owner or person in charge of any vessel or any other person required by the Convention to make, keep, or furnish any record or report, to fail to do so, or to refuse to permit any officer authorized to enforce the Convention or any representative of the Commission to examine and inspect any such record or report at any time.

[SEC. 5. (a) The provisions of the Convention and of this Act and any regulations issued under this Act shall be enforced by the Coast Guard, the Customs Service, and the Bureau of Fisheries. For such purposes any officer of the Coast Guard, Customs, or Fisheries may at any time go on board of any vessel in territorial waters of the United States, or any vessel of the United States or Canada in Convention waters, except in the territorial waters of Canada, to address inquiries to those on board and to examine, inspect, and search the vessel and every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel, and use all necessary force to compel compliance.

[(b) Whenever it appears to any such officer that any person, other than a national or inhabitant of Canada, on any vessel of the United

States is violating or has violated any provision of the Convention or of this Act, he shall arrest such person and seize any such vessel employed in such violation. If any such person on any such vessel of the United States is a national or inhabitant of Canada, such person shall be detained and shall be delivered as soon as practicable to an authorized officer of Canada at the Canadian port or place nearest to the place of detention or at such other port or place as such officers of the United States and of Canada may agree upon.

[(c) Whenever it appears to any such officer of the United States that any person, other than a national or inhabitant of the United States, on any vessel of Canada in Convention waters, except in the territorial waters of Canada, is violating or has violated any provision of the Convention, such person, and any such vessel employed in such violation, shall be detained and such person and such vessel shall be delivered as soon as practicable to an authorized officer of Canada at the Canadian port or place nearest to the place of detention, or at such other port or place as such officers of the United States and of Canada may agree upon. If any such person on any such vessel of Canada is a national or inhabitant of the United States, such person shall be arrested as provided for in subsection (b) of this section.

[(d) Officers or employees of the Coast Guard, Customs, and Fisheries may be directed to attend as witnesses and to produce such available records and files or certified copies thereof as may be produced compatibly with the public interest and as may be considered essential to the prosecution in Canada of any violation of the provisions of the Convention or any Canadian law for the enforcement thereof when requested by the appropriate Canadian authorities in the manner prescribed in article V of the Convention to suppress smuggling concluded between the United States and Canada on June 6, 1924 (44 Stat. (pt. 3), 2097).

[SEC. 6. (a) Any person violating any provision of section 3 of this Act upon conviction shall be fined not more than $1,000 nor less than $100 or be imprisoned for not more than one year, or both.

[(b) The cargo of halibut of every vessel employed in any manner in connection with the violation of any provision of section 3 of this Act shall be forfeited; upon a second violation of the provisions of section 3 of this Act, every such vessel, including its tackle, apparel, furniture, and stores may be forfeited and the cargo of halibut of every such vessel shall be forfeited and, upon a third or subsequent violation of the provisions of section 3 of this Act, every such vessel, including its tackle, apparel, furniture, cargo, and stores shall be forfeited.

[(c) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act: *Provided*, That except as provided in section 5 hereof all rights, powers, and duties conferred or imposed by this Act upon any officer

or employee of the Treasury Department shall, for the purposes of this Act, be exercised or performed by the Secretary of Commerce or by such persons as he may designate.

[SEC. 7. Any person violating section 4 of this Act shall be subject to a penalty of $50 for each such violation. The Secretary of Commerce is authorized and empowered to mitigate or remit any such penalty in the manner prescribed by law for the mitigation or remission of penalties for violation of the navigation laws.

[SEC. 8. None of the prohibitions contained in this Act shall apply to the Commission or its agents when engaged in any scientific investigation.

[SEC. 9. The Secretary of the Treasury and the Secretary of Commerce are authorized to make such joint rules and regulations as may be necessary to carry out the provisions of this Act.

[SEC. 10. This Act shall take effect on the date of exchange of ratifications of the Convention signed by the United States of America and Canada, on January 29, 1937, for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, unless such date shall be prior to the date of approval of this Act in which case it shall take effect immediately.

[SEC. 11. (a) The Secretary of State is authorized to provide, by contract, grant, or otherwise, facilities for office and any other necessary space for the Commission. Such facilities shall be located on or near the campus of the University of Washington in the State of Washington and shall be provided without regard to the cost-sharing provisions in the Convention.

[(b) There is authorized to be appropriated such amount, not in excess of $500,000, as may be necessary to carry out the provisions of this section.]

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